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16 Attorneys for Defendants Terhune,
17 Pliler, Rosario, Chastain, Stiles, Martel,
18 Kimbrell, Scarsella, Holmes, Andrade, Mini,
19 Lynch, Advincula, Dunlap, Hoffman, Jaffe,
20 Kelly, Shoemaker, Clavere, Massey,
21 Baughman and Johnson
22 48149280-SA2003104637

FILED

JUN 24 2005

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
by _____

13 IN THE UNITED STATES DISTRICT COURT
14 FOR THE EASTERN DISTRICT OF CALIFORNIA
15 SACRAMENTO DIVISION

16
17 EVERETT L. McCOY,
18 Plaintiff,
19 v.
20 CAL A. TERHUNE, et al.,
21 Defendants.

CASE NO. CIV S-01-1218 WBS GGH P

DEFENDANTS' REQUEST FOR
EXTENSION OF TIME TO FILE AND
SERVE MOTION FOR SUMMARY
JUDGMENT; [PROPOSED] ORDER

22
23 Defendants Terhune, Pliler, Rosario, Chastain, Stiles, Martel, Kimbrell, Scarsella,
24 Holmes, Andrade, Mini, Lynch, Advincula, Dunlap, Hoffman, Jaffe, Kelly, Shoemaker, Clavere,
25 Massey, Baughman, and Johnson respectfully move the Court for an order granting a thirty-one
26 day extension of time to file and serve Plaintiff with a motion for summary judgment.

27 This application is made on the grounds that the case was recently assigned to Deputy
28 Attorney General Barbara A. Morris, there are twenty-two Defendants, and Plaintiff asserts

1 numerous incidents throughout an approximately seven-month period that he contends constitute
2 violations of his First, Fifth, Eighth and/or Fourteenth Amendment rights, including allegations
3 of interference with medical care, arbitrary confinement in administrative segregation, and due
4 process and equal protection violations. New counsel must interview a number of the
5 Defendants and review numerous documents before preparing the motion for summary
6 judgment.

7 This extension is not sought for purpose of delay, and no previous extensions have
8 been sought by Defendants for bringing a motion for summary judgment. Plaintiff will not be
9 prejudiced by this short delay.

10 Dated: June 8, 2005

11 Respectfully submitted,

12 BILL LOCKYER
Attorney General of the State of California

13 ROBERT R. ANDERSON
Chief Assistant Attorney General

14 FRANCES T. GRUNDER
Senior Assistant Attorney General

15 DAVID A. CARRASCO
Deputy Attorney General

16
17 /s/ *Barbara A. Morris*
18 BARBARA A. MORRIS
19 Deputy Attorney General
20 Attorneys for Defendants

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27 BAM:js
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**DECLARATION OF BARBARA A. MORRIS IN SUPPORT OF
DEFENDANTS' EX PARTE REQUEST FOR EXTENSION OF TIME
TO FILE A MOTION FOR SUMMARY JUDGMENT**

I, Barbara A. Morris, declare:

1. I am an attorney licensed to practice in the State of California.

5 2. On June 1, 2005, I was assigned to represent Defendants in this matter. Plaintiff
6 has named twenty-two individuals who were employed by the California Department of
7 Corrections at the time of the incidents about which plaintiff complains.

8 3. The Court's scheduling order filed February 9, 2005, sets July 8, 2005, as the
9 cut-off date for bringing any pretrial motions. I will need additional time to review the facts of
10 the case, interview Defendants, review various documents as well as the transcript of Plaintiff's
11 deposition, which was taken by Defendants' previous counsel, and prepare the motion for
12 summary judgment.

13 4. Plaintiff is an inmate in the custody of the California Department of Corrections.
14 He is currently housed at Salinas Valley State Prison. He alleges that Defendants conspired to
15 punish and/or retaliate against him because of an altercation he had with one or more deputies
16 while he was in the custody of the Sacramento County Sheriffs Office. He alleges numerous
17 incidents during a seven-month period that he contends amounted to violations of various rights
18 protected by the constitution.

19 5. Because Plaintiff is an inmate who is representing himself, a stipulation extending
20 time cannot reasonably be obtained from him. This is Defendants' first request for an extension
21 of time to prepare a motion for summary judgment. Granting Defendants' request for an
22 extension of time will not prejudice Plaintiff in any manner.

23 I declare under penalty of perjury that the foregoing is true and correct, and that I am
24 competent to testify and would so testify if called as a witness.

Executed this 8th day of June, 2005, at Sacramento, California.

/s/ *Barbara A. Morris*
BARBARA A. MORRIS

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ORDER

IT IS HEREBY ORDERED THAT: good cause having been shown, Defendants shall have until Monday, August 8, 2005, to serve and file their motion for summary judgment.

5 DATED: June 22, 2005

GREGORY C. HOLLOWAY

UNITED STATES MAGISTRATE JUDGE